

No. 4321-4Lab-77/12697.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana, is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workman and the management of M/s. Good Year India Ltd., Ballabgarh.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No 106 of 1971

*between*

THE WORKMAN AND THE MANAGEMENT OF M/S. GOOD YEAR INDIA LTD.,  
BALLABGARH

*Present :—*Shri R. N. Roy for the workmen.

Dr. Anand Parkash, Jagat Arora, K. L. Khurana for the management.

#### INTERIM AWARD

By order No. ID/PD/2-D-71/35376, dated 29th November, 1971 the Governor of Haryana, referred the following dispute between the management of M/s. Good Year India Ltd., Ballabgarh and its workmen to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

- (1) Whether Shri K. C. Sharma, Q. C. is entitled to his maximum hourly rate with retrospective effect ? If not, to what relief he is entitled to ?
- (2) Whether the management should pay to Shri B. S. Verma the rate of a receiving Clerk for the period Shri Verma worked as an Expansion Project Receiving clerk ? If so, with what details ?
- (3) Whether the retrenchment of Shri V. K. Sachar from the post of Painter is justified and in order ? If not, to what relief is he entitled to ?
- (4) Whether the dismissal of Shri Aram Singh Patwari is justified and in order ? If not, to what relief is he entitled to ?

On receipt of the reference, notices were issued to the parties. The parties appeared and put in their pleadings. Issues were framed.

1. Whether the demands, the subject-matter of the present reference, were first raised on the management and rejected by it before taking up the matter for conciliation ? If not, with what effect ? (on workman).
2. Whether Shri V. K. Sachar was never retrenched and therefore the present reference is bad in law so far as he is concerned ? (on management).
3. Whether Shri K. C. Sharma, Q-C is entitled to his maximum hourly rate with retrospective effect ? If not, to what relief he is entitled to ?
4. Whether the management should pay to Shri B.S. Verma the rate of a Receiving Clerk for the period Shri Verma worked as an Expansion Project Receiving Clerk ? If so, with what details ?
5. Whether the retrenchment of Shri V. K. Sachar from the post of Painter is justified and in order ? If not, to what relief is he entitled to ?
6. Whether the dismissal of Shri Aram Singh Patwari is justified and in order ? If not, to what relief is he entitled to ?

The case was fixed for evidence. At this stage, one of the workmen's Shri K. C. Sharma moved an application on 5th April, 1977 before the Tribunal that he has no dispute with the management and that he did not want to pursue his demand/dispute. He prayed that no dispute award be given. He personally appeared on 5th April, 1977 and corroborated the above-said averments. He had further stated in his application that his authorised representative had no authority to pursue his demand/dispute thereafter. I, therefore, give my award as follows that there is no

dispute between the management and the workman Shri K. C. Sharma. This decide dispute No. 1 referred to this Tribunal under the above said reference.

Dated the 6th April, 1977.

NATHU RAM SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 401, dated the 19th April, 1977.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 19th April, 1977.

NATHU RAM SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 4279-4Lab-77/12699.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s Sirsa Electric Supply Co., Sirsa.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Reference No. 106 of 1970

between

SHRI JAGDISH PARSHAD BANSAL, WORKMAN AND THE MANAGEMENT OF M/S SIRSA  
ELECTRIC SUPPLY CO., SIRSA

AWARD

The Governor of Haryana referred the following dispute for adjudication by this Court, in exercise of the powers conferred on him,—*vide* clause (c) of sub-section (1) of section 10 read with proviso appended to it,—*vide* order No. 534-SF-III-Lab-67/34765, dated the 28th November, 1967 :—

“Whether the termination of services of Shri Jagdish Parshad, Bansal was justified and in order ? If not, to what relief he is entitled ?”

The appointment of Shri P. N. Thukral the then Presiding Officer of this Court being held as illegal by the Hon'ble the Punjab and Haryana High Court, the Governor of Haryana referred the aforesaid dispute for adjudication by another Labour Court,—*vide* his order, dated the 31st July, 1970.

The licence of the management concerned having been terminated under the provisions of section 5 and 6 of the Electricity Act and the Haryana State Electricity Board having taken over the management of the undertaking by way of its purchase, the workman made an application, dated the 30th November, 1972 praying for impleading the Haryana State Electricity Board through its Secretary as a proper and necessary party in the reference on the following grounds :—

- (a) that he was appointed as Assistant Secretary by Shri Lal Chand Minda receiver of the management concerned appointed,—*vide* orders of the Hon'ble Punjab and Haryana High Court, Chandigarh, dated the 17th February, 1966 made in L.P.A. No. L.P.A. 295 of 1965.
- (b) that all the managerial powers had been vested in Lal Chand Minda receiver by the Hon'ble Punjab and Haryana High Court.
- (c) that the information relating to his appointment as Assistant Secretary had been submitted to the Haryana State Electricity Board a party in the L.P.A.
- (d) that the income, expenditure, assets, liability etc., of the management concerned were transferred to the Haryana State Electricity Board with effect from 24th April, 1965, on termination of the licence of the management concerned, on 24-4-1965.

This application being resisted by the Haryana State Electricity Board was finally dismissed by me,—*vide* my detailed order, dated 7th November, 1975, with the finding that the obligations and liability of the management concerned towards its employees could not legally be said to have been transferred to the Haryana State

Electricity Board on the termination of their licence. Miscellaneous applications No. 1 and 2 of 1976 and applications, dated 1st November, 1975, 20th November, 1975 and 4th November, 1975 brought by the workman for review of my order, dated 7th November, 1975, in one form or the other, were all dismissed by me,—vide my order, dated 30th March, 1977, with the result that the Haryana State Electricity Board is no longer a party before me.

The workman concerned was admittedly appointed as Assistant Secretary by Shri Lal Chand Minda appointed as receiver of the Sirsa Electric Supply Co., Sirsa, the Management concerned, — vide orders of the Punjab and Haryana High Court, Chandigarh, dated 17th February, 1965 made in L.P.A. No. 298 of 1965. Hon'ble the Punjab and Haryana High Court,—vide their judgment, dated 8th February, 1972 dismissed a suit brought by Lal Chand Minda against the State of Punjab, and the Punjab State Electricity Board, for declaration that the notice, dated 24th December, 1963 issued by the Punjab State Electricity Board (Predecessor in title of the H.S.E.B.) to the Sirsa Electric Supply Co., Sirsa under section 6 of the Indian Electricity Act for terminating the licence of the latter was illegal and that the licence shall be deemed to continue for another period of 30 years and the Punjab State Electricity Board be restrained from exercising their right of purchase of the undertaking, with a finding that the electric licence of the Sirsa Electric Supply Co., Sirsa stood terminated with effect from mid-night of 23rd April, 1965 and 24th April, 1965 and the notice served on them under section 6(i) of the Indian Electricity Act was legal and valid in all respects.

It would thus appear that the licence of the undertaking Sirsa Electricity Supply Co. Sirsa stood terminated on mid-night of 23rd April, 1965 and 24th April, 1965 much before the appointment of the workman rendering them non-existent and a non-entity and this reference made in the year 1967 or in the year 1970 impleading them as a party is manifestly illegal and unmaintainable and no relief can under the circumstances be granted to Shri Jagdish Parshad Bansal the alleged concerned workman.

I hold accordingly and answer the reference while returning the award in these terms with a direction that my order, dated 7th November, 1975 and 30th March, 1977, be both got published alongwith this award.

Dated the 7th April, 1977.

MOHAN LAL JAIN,  
Presiding Officer,  
Labour Court, Haryana, Rohtak.

No. 796, dated the 25th April, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,  
Presiding Officer,  
Labour Court, Haryana, Rohtak.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Reference No. 106 of 1970

between

SHRI JAGDISH PARSHAD BANSAL AND THE MANAGEMENT OF M/s. SIRSA  
ELECTRIC SUPPLY COMPANY. SIRSA  
ORDER

By order No. 534-SF-Lab-67/34765, dated 28th November, 1970 of the Governor of Haryana, the following dispute between the management of M/s Sirsa Electric Supply Company, Sirsa and its workman Shri Jagdish Parshad Bansal was referred for adjudication to this Court, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947.

“Whether the termination of services of Shri Jagdish Parshad Bansal was justified and in order? If not, to what relief is he entitled?”

The parties appeared in response to the notices of reference sent to them and filed their pleadings.

During the proceedings of the case, Shri Jagdish Parshad Bansal workman made an application praying for impleading the Haryana State Electricity Board, Chandigarh through its Secretary as a proper and necessary party, on the grounds stated as under :—

(a) That he was appointed as Assistant Secretary by Shri Lal Chand Minda appointed as receiver of Sirsa Electric Supply Company, Sirsa on the basis of mutual settlement made between the

Haryana State Electricity Board and Lal Chand Minda in the High Court during the pendency of a suit brought by Lal Chand Minda against the State of Punjab and the Secretary Irrigation and Power Department, Punjab and the Punjab State Electricity Board ;

- (b) that the Punjab and Haryana High Court finally decided the suit, —*vide* order dated 8th February, 1972 holding that the licence of the Sirsa Electric Supply Company, Sirsa (hereinafter referred to as the Company) stood terminated with effect from 24th April, 1965, and its income expenditure assets and liabilities shall vest thereafter in the Haryana State Electricity Board (hereinafter referred to as the Board) ;
- (c) that the import of the High Court order would be that all acts and things done by Shri Lal Chand Minda in his capacity as receiver of the Company must be deemed to be valid acts done on behalf of the Board and that the Board should be impleaded as the real employer in place of the Company in this reference under the circumstances.

The Board resisted the application with a plea that they were not the successor in interest of the Company and were on the other hand, purchaser for valuable consideration in exercise of their statutory rights conferred on them by the Indian Electricity Act, 1910, of the assets of the Company. They stated that no legal liability could be fastened on them for the acts of omission and commission of the officers of the Company and they could in no sense be deemed to be the employer of the applicant. They stressed that they were, therefore, not a necessary or proper party in the case and could not legally be added or substituted as a party. The correctness of the order of the High Court as referred to above was admitted.

The petitioner controverted the pleas of the Board, —*vide* rejoinder filed by him with the result that I framed the following legal issues, —*vide* order dated 18th September, 1975:—

- (1) Whether the workman is entitled to an order of impleading by this Court, the Haryana State Electricity Board, Chandigarh, as a party, not impleaded as a party in the reference by the Government ?
- (2) Whether the Haryana State Electricity Board, Chandigarh, is a necessary or proper party in the reference ? If yes to what effect ?

I have heard the petitioner and Shri Chanchal Singh authorised representative of the Board at some length on the aforesaid issues. The pith and substance of the issues centres round the legal aspect of the matter relating to the Board being a necessary or a proper party or not and the powers of this Court to add or substitute a party after the reference is made. I propose to decide the second question first as under.

The provisions of section 18(3)(a) and (b) of the Industrial Disputes Act, 1947, relevant on the subject read as under :—

“Section 18(3).—A settlement arrived at in the course of conciliation proceedings under this Act, or an arbitration award in the case where a notification has been issued under sub-section (3-A) of section 10-A or an award of a Labour Court, Tribunal or National Tribunal, which has become enforceable shall be binding on—

- (a) all parties to the industrial dispute :—
- (b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board (arbitrator), Labour Court, Tribunal or National Tribunal as the case may be records the option that they were so summoned without proper cause ;”

It was held in AIR-1954-Madras-686 Radha Krishna Mills Ltd. versus the Special Industrial Tribunal, Madras, that the provisions of section 18, clause (b) of the Industrial Disputes Act (hereinafter referred to as the Act) by necessary implication vested in the Industrial Tribunal power to add any person or establishment whose presence is necessary or proper for the due and just adjudication of the dispute, as parties to the reference. This view of law was reiterated in 1962-II-LLJ-279 between Sarswati Steel Rolling Mills and Labour Court, Rohtak by the Punjab High Court.

Shri Chanchal Singh authorised representative for the Board contended with reference to the provisions of section 19(3) (b) of the Act that only those parties could legally be added in the reference who had been summoned to appear in the conciliation proceedings by the Conciliation Officer and not others. This argument how so ever weighty, it may seem to be, I feel myself bound by the decisions of the Madras and Punjab High Courts referred to above and held while relying on them that this court has power to add a person or an establishment other than party to the reference as a party in the reference. I, however, believe that the power to add a party does not include within itself a power to substitute a party and in this view of the matter neither the Industrial Tribunal nor the Labour Court can be said to have powers and jurisdiction to substitute a person or an establishment for as party impleaded as such by the Government.

Assuming that I as Presiding Officer, Labour Court have jurisdiction to add or substitute the Board as a party in the case, it has to be seen whether the later is a necessary or a proper party in the case for a final decision of the reference and it would be proper to add or substitute as a party in the case.

I was in this connection taken through the provisions of sections 5, 6 and 7 of the Indian Electricity Act by Shri Chanchal Singh. Section 7 of the aforesaid Act lays down as under :-

"Section 7:— Vesting of the undertaking in the purchaser.—Where an undertaking is sold under section 5 or section 6, then upon the completion of the sale or on the date on which the undertaking is delivered to the intending purchaser under sub-section(3) of section 5 or under subsectin (6) of section 6, as the case may be, whichever is earlier :-

- (i) the undertaking shall vest in the purchaser or the intending purchaser, as the case may be, free from any debt, mortgage or similar obligation or the licensee or attaching to the undertaking ;

Provided that any such debt, mortgage of similar obligation shall attach to the purchase money in substitution for the undertaking ;

- (ii) the rights, powers, authorities, duties and obligation of the licensee under his license shall stand transferred to the purchaser and such purchaser shall be deemed to the licensee ;

Provided that where the undertaking is sold or delivered to a State Electricity Board or the State Government, the license shall cease to have further operation .

It stands conceded before me on both sides that the Company had been purchased by the Board under the provisions of section 6 of the Electricity Act after its license had been revoked under section 5 of the Act and all the necessary formalities had been observed.

The only point requiring determination for decision of the application would be as to whether the rights, powers, authorities, duties and obligations of the licensee transferred in favour of the purchaser include the rights of the employees of the licensee and the obligations of the later *que* them. This question came up for decision in AIR-1970 (Allahabad-589 between Bijli Amzdooor Sangh V/s Resident Engineer and others before the Allahabad High Court and it was answered in the negative with the following observations :

"But the obligation refered to here are only the obligation under the license viz., obligations towards the Government or towards the consumers and cannot be construed as including obligations towards the employee as well. Had there been any intention on the part of the legislature to make it necessary for all obligations of the old licensee towards its employees to be assumed by the State Electricity Board when it purchases an undertaking, one would have expected some specifics provisions in the Act to this effect, but no such provisions is to be found. In fact, as Mr. Shanti Bhushan (appearing for the respondent) has pointed out, such a provision would in many cases defeat the very object of the take over of an electrical undertaking by the State Electricity Board, for the Board would find itself obliged to retain in service all employees of the Company, even though some of them might be found redundant or un-qualified."

No other authority taking a contrary view could be referred to me in this connection by the petitioner and I relying on the observations of his Lordship made in AIR-1970-Allahabad-589 hold that the obligations of the Company towards the petitioner and the rights of the later against the former do not stand transferred in the Board under section 7, sub-section(2) of the Indian Electricity Act and the Board as such is neither a necessary nor a proper party for adjudication of the dispute as referred to this Court. I accordingly dismiss the petition.

Dated 7th November, 1975

MOHAN LAL JAIN,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Misc. Application No. 1 of 1976

*Between*

SHRI JAGDISH PARSHAD WORKMAN AND THE MANAGEMENT OF M/S. SIRSA ELECTRIC  
SUPPLY CO., SIRSA

## ORDER

This order shall dispose of Misc. applications No. 1 and 2 of 1976 and applications dated 1st December, 1975, 20th November, 1975 and dated 4th November, 1975 each brought by Shri Jagdish Parshad Bansal, in reference No. 106 of 1970.

The admitted facts of the case are that the Governor of Haryana referred the following dispute for adjudication by this Court,—*vide* his order dated 31st July, 1970 in exercise of the powers conferred on him,—*vide* clause (c) of sub-section 1 of section 10 of the Industrial Disputes Act :—

Whether the termination of services of Shri Jagdish Parshad Bansal was justified and in order ? If not, to what relief is he entitled ?

The workman made an application dated 30th November, 1972 praying for impleading the Haryana State Electricity Board, Chandigarh through its Secretary as proper and necessary party in the reference on the grounds, *inter alia* :—

- (a) That he was appointed as Assistant Secretary by Shri Lal Chand Minda receiver of the management concerned appointed,—*vide* orders of the Hon'ble Punjab and Haryana High Court, Chandigarh dated 17th February, 1966 made in L.P.A. No. L.P.A. 298 of 1965.
- (b) That all the managerial powers had been vested in Lal Chand Minda receiver by the Hon'ble Punjab and Haryana High Court.
- (c) That the information relating to his appointment as Assistant Secretary had been submitted to the Haryana State Electricity Board a party in the L.P.A.
- (d) That the income expenditure assets liability etc., of the management concerned were transferred to the Haryana State Electricity Board w.e.f. 24th April, 1965 on termination of the license of the management concerned on 24th April, 1965.

The application dated 3rd November, 1972 referred to above, being resisted by the Board, was finally dismissed by me,—*vide* my detailed order dated 7th November, 1975 with the findings that the obligations and liability of the management concerned towards its employees could not legally be said to have been transferred to the Haryana State Electricity Board, on termination of the license of the management concerned under sections 5 and 6 of the Indian Electricity Act and that the Haryana State Electricity Board was under the circumstances neither a proper nor a necessary party in the case.

Feeling aggrieved of this order, the workman concerned made as many as 5 applications as noted below each in the guise of an application for review of the impugned order dated 7th November, 1975.

For instance he made an application dated 1st December, 1975 praying for summoning the management concerned (Sirsa Electric Supply Co., Sirsa) through its owner, the Haryana State Electricity Board, for necessary and proper adjudication of the Industrial Dispute, referred to this Court on the ground that the latter was the sole owner successor and assignee of the former. He made another application dated 20th November, 1975, for considering the authorities noted therein, alleged to have been submitted before me by him at the time of the hearing of the arguments of his application for impleading the Haryana State Electricity Board as a necessary party and rewriting the judgement. He made another application dated 20th November, 1975 praying for taking up the case for hearing at Sirsa his place of residence and disposing it expeditiously, and for debarring Shri Chanchal Singh Advocate from appearing on behalf of Haryana State Electricity Board. He made an application dated 3rd March, 1976 Misc. No. 2 of 1976 for issuing a notice to the Haryana State Electricity Board for giving them an opportunity to reconsider their position and recording their statement that they did not agree to be impleaded as a party. He made Misc. application No. 1 of 1976 for review of my order dated 7th November, 1975.

He did not press his prayer for an order debarring Shri Chanchal Singh Advocate to appear for Haryana State Electricity Board. It would appear from the brief admitted facts of the case, state above that all the applications made by the applicant were in substance for review of my order dated 7th November, 1975. I as such propose to dispose of all these applications together here under.—

The Haryana State Electricity Board did not propose to appear before me after the filing of a written reply. I as such had to hear Shri J.P. Bansal applicant, in their absence, *Ex parte*. I heard Shri J.P. Bansal at length and carefully read the written arguments dated 28th January, 1977 submitted by him. Two points are admittedly involved in all the aforesaid applications made by the applicant for review of my order dated 7th November, 1975, firstly as to whether there is a mistake or error apparent on the face of the record justifying a review of the order and secondly as to whether this Court is entitled in law to review the order dated 7th November, 1975 on a finding that there was a mistake or error apparent on the record.

Taking up the first question, the applicant stressed that the Court has to accept for granted all the allegations made in his application dated 30th November, 1972 and it could not look to the pleas taken in the written statement or to the evidence adduced. He thus contended that the Court had to decide the application for impleading Haryana State Electricity Board as a party on the assumption of the correctness of the allegations made therein without considering the defence taken in the written statement or the evidence recorded. He submitted an authority ILR 40 Calcutta 598 and gave purport of other authorities relied on by him in support of his contention.

I have given careful consideration to the arguments of Shri J.P. Bansal and read the authorities relied on by him. I have no dispute with the principles that all the allegations of fact made in an application have to be accepted as correct for deciding it as preliminary without making an enquiry. I, however, do not agree that even the principles of law stated in the application by the applicant have to be taken as correct irrespective of the fact that these have been wrongly stated.

I find on a perusal of the whole record, that the order dated 7th November, 1975 was made by me after full consideration of the facts stated by the applicant in his application for impleading Haryana State Electricity Board as a party that the license of the management concerned stood terminated on 24th April, 1965 under the provisions of section 5 and 6 of the Indian Electricity Act as a result of its purchase by the Haryana State Electricity Board and accepting the same as correct. I, however, held, that the Haryana State Electricity Board under the circumstances could not be held as a successor of the management concerned for discharging their liability towards their employees under the law. I am thus constrained to hold that the order dated 7th November, 1975 made by me as absolutely correct, much less erroneous with a mistake and error apparent on face of the record.

The question of the jurisdiction of this Court to review the order dated 7th November, 1975 on the ground of an error or mistake apparent on the record does not arise for decision in view of my findings against the applicant on the former issue. I, thus dismiss all these applications. Parties be informed with a direction to the workman to appear before me on 7th April, 1977 at Hissar for taking further proceedings in the case.

Dated the 30th March, 1977.

MOHAN LAL JAIN,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

**No. 3243-4Lab-77/12701.**—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. The Chairman Market Committee, Mohindergarh :—

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK

Reference No. 27 of 1973

*Between*

SHRI SUBH RAM WORKMAN AND THE MANAGEMENT OF THE CHAIRMAN,  
MARKET COMMITTEE, MOHINDERGARH

AWARD

By order No. ID/HSR/112-A-73/11958-62, dated 29th March, 1973 of the Governor of Haryana, the following dispute between the management of the Chairman Market Committee, Mohindergarh and its workman Shri Subh Ram, was referred to this Court for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Subh Ram was justified and in order ? If not, to what relief is he entitled ?

The parties put in their appearance in this Court in response to the usual notices of reference sent to them and filed their pleadings.

The workman alleged vide claim statement filed by him that the enquiry held against him into the charges of his being found absent from duty from 8-30 A.M. to 8-30 P.M. on 16th September, 1971, was illegal and against the principles of natural justice. He stated that he was actually present on duty on 16th September, 1971 and had gone for a brief duration to a private Medical Practitioner for consultation regarding his ailment.

The management denied the allegations made by the workman and pleaded,—vide written statement filed by them that he was actually absent from duty on 16th September, 1971 and that they were not an Industry within the meaning of this term as given in section 2(j) of the Industrial Disputes Act, 1947.

The workman reiterated the allegations made by him in the claim statement and controverted the pleas of the management,—vide rejoinder filed by him with the result that the following issues were framed on pleas of the parties,—vide order dated 25th February, 1974 :—

1. Whether the Market Committee, Mohindergarh is an Industry as defined under section 2(j) of the Industrial Disputes Act ?
2. Whether the termination of services of Shri Subh Ram was justified and in order ? If not, to what relief is he entitled ?

I have heard authorised representative for the workman and Shri Kishori Lal, Accountant appearing for the management. I decide the issues as under :—

**Issue No. 1—**

It had to be conceded by the management that the Market Committee, Mohindergarh was an Industry within the meaning of this term as defined in section 2 (j) of the Industrial Disputes Act. I accordingly decide this issue against the management.

**Issue No. 2—**

The enquiry held against the workman was held as vitiated,—vide my order, dated 3rd August, 1976 which may be considered as a part of this award and duly published.

On merits of the case, the management examined Shri Narinder Singh, Advocate, Narnaul, admittedly a Chairman of the Market Committee Mohindergarh during the year 1971 as MW-1 and Shri Sanwar Mal a grain dealer of Satnali Mandi as MW-2 and led no other evidence. Both these witnesses deposed that the workman was found absent from duty at about 8-30 P.M. None of them stated a word about the absence of the workman from duty at any other time. The workman appearing as his own witness, on the other hand stated that his duty hours as a Chowkidar at Satnali were from 9-00 P.M. to 9-00 A.M. and that it was none of his responsibility to remain present on duty from 9-00 A.M. to 9-00 P.M. and that he was present at his residence at 8-30 P.M.

The management failed to establish the duty hours of the workman concerned in his capacity as a Chowkidar, and in absence of such evidence on record it cannot be said that the workman had to remain present on duty at 8-30 P.M.

Even assuming that the workman concerned was found absent from duty at 8-30 P.M., during duty hours, such a minor lapse hardly justified orders of termination of his services, and no rules could be produced before me by the management in support of such an action.

Considered from any angle the order of termination of services of the workman concerned w.e.f. 3rd November, 1972 are unjustified and he is entitled to reinstatement from that date with continuity of service and full back wages.

I order accordingly and return the award with these findings.

Dated 11th April, 1977.

MOHAN LAL JAIN,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 747, dated 18th April, 1977.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Reference No. 27 of 1973

Between

SHRI SUBH RAM, WORKMAN AND THE CHAIRMAN, MARKET COMMITTEE,  
MOHINDERGARH



## ORDER

The parties have closed their evidence on the matter of the vires of the enquiry, I have heard learned authorised representatives for the parties with reference to the records of enquiry attached with this reference.

The workman was charged for misconduct of his absence from duty on 16th September, 1971 8-30 A.M. and 8-30 P.M. without permission. The chairman and members of the Market Committee admittedly appointed an enquiry committee consisting of Shri Narinder Singh, Chairman, Bishan Dayal and Chandgi Ram, members vide resolution No. 3, dated 27th November, 1971 for holding an enquiry into the Charge Sheet as referred to above. These members of the enquiry Committee instead of holding the enquiry by themselves in accordance with the resolution referred to above, delegated their powers to Shri Bishan Dayal alone. Shri Bishan Dayal thus admittedly held the enquiry against the workman under any authority by member of the Committee in his favour.

Shri Bishan Dayal made his report holding the charge of absence of the workman from duty proved. It would be interesting to note that even though he alone was directed by the members of the Enquiry Committee to hold an enquiry, he got the report signed even from Chandgi Ram, who never conducted the enquiry.

Shri Narinder Singh, one of the members of the enquiry Committee was admittedly an eye witness of the occurrence as he allegedly himself found the workman absent from duty on a visit made by him.

All these facts apparent on the face of the record of enquiry render the same vitiated. The proceedings of the enquiry taken by Shri Bishan Dayal alone cannot under the circumstances be relied upon for upholding the punishment awarded to the workman for the alleged misconduct of absence from duty. I, thus in final analysis of the whole matter, hold the enquiry vitiated. The management at this stage propose to adduce evidence in support of the Charge Sheet. They are directed to adduce their evidence on 6th September, 1976 at Dadri.

Dated the 3rd August, 1976.

MOHAN LAL JAIN,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

P. P. CAPRIHAN,  
Commissioner and Secy.

राजस्व विभाग

युद्ध जागीर

दिनांक 27 मई, 1977

क्रमांक 627-ज(I)-77/13333 --पूर्वी पंजाब युद्ध पुरस्कार अधिनियम, 1948 (जैसा कि उसे हरियाणा राज्य में अपनाया गया है और उसमें आज तक संशोधन किया गया है), की धारा 2(ए)(1ए) तथा 3(1ए) के अनुसार सौंपे गये अधिकारों का प्रयोग करते हुए भारत के राष्ट्रपति श्री नेत्र राम, पुत्र श्री निरंजन राम, गांव खड़गावांस, तहसील रिवाड़ी, जिला महेन्द्रगढ़, को रबी, 1973 में 150 रुपये वार्षिक कीमत वाली युद्ध जागीर सनद में दी गई गतों के अनुसार महर्ष प्रदान करते हैं।

क्रमांक 459-ज(II)-77/13337 --श्री खेम सिंह, पुत्र श्री जयमल सिंह, गांव घामरोज, तहसील व जिला गुड़गावा की दिनांक 5 दिसम्बर, 1974 को हुई मृत्यु के परिणामस्वरूप भारत के राष्ट्रपति, पूर्वी पंजाब युद्ध पुरस्कार अधिनियम, 1948 (जैसा कि उसे हरियाणा राज्य में अपनाया गया है और उसमें आज तक संशोधन किया गया है) की धारा 4 एवं 2 (ए)(1) तथा 3 (1) के अधीन प्रदान की गई शक्तियों का प्रयोग करते हुए सहर्ष आदेश देते हैं कि श्री खेम सिंह को मूलिक 200 रुपये वार्षिक की जागीर जो उसे हरियाणा सरकार की अधिसूचना क्रमांक 4863-र (III)-69/28877, दिनांक 5 दिसम्बर, 1969 तथा अधिसूचना क्रमांक 5041-आर-III-70/29505, दिनांक 8 दिसम्बर, 1970 द्वारा मंजूर की गई थी, अब उसकी विधवा श्रीमती सुनहरी देवी, के नाम खरीफ, 1975 से 200 रुपये वार्षिक की दर से सनद में दी गई शर्तों के अन्तर्गत तबदील की जाती है।

क्रमांक 523-ज-II-77/13341 --श्री माम चन्द, पुत्र श्री नत्थू राम, गांव भाकली, तहसील झज्जर, जिला रोहतक की दिनांक 3 मई, 1976 को हुई मृत्यु के परिणामस्वरूप भारत के राष्ट्रपति, पूर्वी पंजाब युद्ध पुरस्कार अधिनियम, 1948 (जैसा कि उसे हरियाणा राज्य में अपनाया गया है और उसमें आज तक संशोधन किया गया है) की धारा 4 एवं 2 (ए)(1) तथा 3(1) के अधीन प्रदान की गई शक्तियों का प्रयोग करते हुए महर्ष आदेश देते हैं, कि श्री माम चन्द को मूलिक 150 रु० वार्षिक की जागीर जो उसे हरियाणा सरकार की अधिसूचना क्रमांक 8062-र (4)-67/499/1, दिनांक 2 फरवरी, 1968 तथा अधिसूचना क्रमांक 5041-आर-III-70/29505, दिनांक 8 दिसम्बर, 1970 द्वारा मंजूर की गई थी, अब उसकी विधवा श्रीमती सरती के नाम खरीफ, 1976 से 150 रु० वार्षिक की दर से सनद में दी गई शर्तों के अन्तर्गत तबदील की जाती है।